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TAGS: [EFIN](#) [PREL](#) [PTER](#) [UNSC](#)
SUBJECT: UN FOCAL POINT DELISTING REQUEST FOR KHALAF
AL-DULIMI

[1](#)1. (U) This is an action request. Please see paragraph 5.

SUMMARY AND OBJECTIVES

[1](#)2. (SBU) In June 2008, lawyers for Khalaf Al-Dulimi petitioned on behalf of Al-Dulimi (an Iraqi citizen resident in Jordan) and his company Montana Management Inc. (a company incorporated in Panama for which Al-Dulimi is the sole shareholder) for delisting from sanctions imposed pursuant to UNSC 1483 (which obligates Member States to impose an asset freeze and travel ban on individuals and entities linked to the former Saddam Hussein regime in Iraq). In their delisting petition, the petitioners "request that the Sanctions Committee... disclose to them, directly or through the Focal Point, the information and evidence having led to the petitioners' designation," and that the petitioners "be given the ability to determine themselves and complement their delisting request on this information and evidence." (Note: Al-Dulimi denies he was ever a member of the Baath Party, and further denies he was "a director of investments for the Iraqi Intelligence Service" under Saddam Hussein, which Al-Dulimi's lawyers point out is the only allegation publicly levied against Al-Dulimi (and derivatively Montana Management Inc., which was designated because it is "owned and controlled by" Al-Dulimi) in support of his listing under UNSCR 1483.) We would like to be in a position to provide that information to the petitioners, either through the UNSC 1518 Committee and/or UN Focal Point, or perhaps ask Government of Iraq (GOI) officials-- who are best placed to provide additional details -- to share it directly with the petitioners.

[1](#)3. (SBU) The Governments of Iraq (country of citizenship) and the United Kingdom (which co-sponsored the USG-proposed listing under UNSCR 1483) have informed the UN Focal Point of their opposition to the delisting petition for Al-Dulimi and Montana Management, Inc. Nonetheless, the USG has additional questions regarding Al-Dulimi we would like clarified by GOI officials, in particular. We are committed to upholding measures to ensure transparency and fairness in procedures across UN sanctions regimes. We are committed to ensuring that individuals/entities subject to UN sanctions are made aware of the reasons for listing, and as a result can fully avail themselves of the procedures in place to petition for delisting.

BACKGROUND

[1](#)4. (U) Al-Dulimi's lawyers have filed suit in Switzerland to stop imposition of UN mandated sanctions. They have filed a separate suit before the European Court of Human Rights

(ECHR) on the grounds that Al-Dulimi and Montana Management were denied due process guarantees under article 6 of the ECHR when the Swiss Government froze their assets without the plaintiffs having been informed of the reasons for the imposition of sanctions. Al-Dulimi's lawyers anticipate the ECHR will rule in favor of the plaintiffs, particularly in the wake of a September 2008 decision of the European Court of Justice (ECJ) involving plaintiffs whose assets were also frozen pursuant to sanctions imposed by the UN Security Council. In that case, the ECJ ruled that the European Council regulation implementing the asset freeze requirements violates procedural and property rights enshrined in European Community law. The key procedural defect identified by the ECJ was a failure to provide the designated parties with adequate notice of the reasons for listing, which is what Al-Dulimi's lawyers have requested from the 1518 Committee.

ACTION REQUEST

15. (SBU) Embassy Baghdad, as well as USUN, should pose the following questions to the appropriate level GOI interlocutors familiar with the Al-Dulimi case and UNSC 1518 (Iraq) Sanctions:

Can the Iraqis provide further information/documentation about what Al-Dulimi did for the Saddam Hussein regime? For example, the Iraqi submission says that "it is an undisputed fact that (Al-Dulimi) was a director of investments for the Iraqi Intelligence Service and one of the senior officials of the former Iraqi regime and a high ranking Baath Party official." The Iraq statement also says that "It is a matter of public information and hereby confirmed by the Republic of Iraq that (Al-Dulimi) was acting on behalf of the previous Iraqi regime as a front man concealing misappropriated Iraqi assets in shell companies, usually managed through trustees."

Can the Iraqis provide further information on the assets held by Al-Dulimi and Montana Management? For example, Iraqi officials -- in their denial of delisting for Dulimi and Montana Management -- have said that "it is also publicly known that (Al-Dulimi) was responsible for the creation of offshore holdings, and shell companies for the purposes of concealing the misappropriated assets and embezzled money of the Iraqi people. It is beyond doubt that the shares of Lagardere Group held by Montana of which (Al-Dulimi) is sole director and sole shareholder are Iraqi assets." Can the Iraqis provide supporting evidence or other documentation?

Can Iraq provide further information on how Montana was used in support of the regime and/or the current activities of Al-Dulimi or Montana Management Inc.?

Do the Iraqis have any supporting evidence or documentation relating to their allegation that Dulimi is a "perpetrator and financier or acts of terrorism" in Iraq? This is not directly relevant to designation under UNSCR 1483, but is information of interest to the USG.

What, if any, of the above information would the GOI be willing to provide to the delisting petitioners directly, or via the UN Focal Point?

REPORTING DEADLINE AND POINT OF CONTACT

16. (U) Embassy Baghdad and USUN should report as soon as possible results of their engagement with GOI officials.

17. (U) Questions may be directed to IO/PSC (Erin Crowe, 202-736-7847).

RICE